IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 18393 of 2006(M)

PETITIONER:

K.SOUMYA (MINOR),D/O.LATE K.SULOCHANA,
AGED 16 YEARS, REPRESENTED BY GUARDIAN AND UNCLE
K.GANGADHARAN,RESIDING AT 'REHKA NIVAS',
KALPADAM PARAMBU, AZHCHAVATTOM,MANKAVU,
KOZHIKODE.

BY ADV. SMT.PRABHA R.MENON
SRI.M.KRISHNAKUMAR

RESPONDENTS:
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1. THE ACCOUNTANT GENERAL(A&E)
INDIAN AUDIT AND ACCOUNTS DEPT.
OFFICE OF THE ACCOUNTANT GENERAL (A&E),
P.BOX.NO.5601,M.G.ROAD,THIRUVANANTHAPURAM.

2. THE STATE OF KERALA REPRESENTED BY THE
CHIEF SECRETARY,SECRETARIAT,
THIRUVANANTHAPURAM.

3. THE CHIEF CHEMICAL EXAMINER,
CHEMICAL EXAMINER'S LABORATORY,
THIRUVANANTHAPURAM.

4. THE JOINT CHEMICAL EXAMINER,
REGIONAL CHEMICAL EXAMINER'S LABORATORY,
KOZHIKODE.

BY GOVERNMENT PLEADER SRI.P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.18393/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE BIRTH CERTIFICATE OF THE PETITIONER DATED 23.4.1990.

EXT.P2: TRUE COPY OF THE CERTIFICATE ISSUED BY the VILLAGE OFFICER, VALAYANAD DATED 27.1.2000.

EXT.P3: TRUE COPY OF THE CERTIFICATE ISSUED FROM THE ADDITIONAL TAHSILDAR, KOZHIKODE DATED 20.3.2001.

EXT.P4: TRUE COPY OF THE CERTIFICATE OF IDENTIFICATION MARKS.

EXT.P5: TRUE COPY OF THE ENQUIRY REPORT DATED 20.6.05.

EXT.P6: TRUE COPY OF the ORDER DATED 5.12.2005 OF TAHSILDAR.

EXT.P7: TRUE COPY OF THE REPRESENTATION DATED 9.12.2005.

EXT.P8: TRUE COPY OF THE ORDER DATED 11.5.2006.

EXT.P9: TRUE COPY OF THE CERTIFICATE DATED 17.6.2006.

EXT.P10: TRUE COPY OF THE CERTIFICATE DATED 22.12.2006 OF THE ADDITIONAL TAHSILDAR.

EXT.P11: TRUE COPY OF THE APPLICATION OF PETITIONER'S GUARDIAN.

EXT.P12: TRUE COPY OF THE AFFIDAVIT OF PETITIONER'S GUARDIAN DATED 24.11.2006.

EXT.P13: TRUE COPY OF INDEMNITY BOND DATED 24.11.2006.

//TRUE COPY//

K.K.DENESAN, J.

WP(C)No. 18393 OF 2006

Dated this the 31st January, 2007.

JUDGMENT

The petitioner is a minor aged 16 years. Her mother late Smt. K.Sulochana, was a part time contingent sweeper in the office of the fourth respondent. Late Smt. K.Sulochana was married to one T.Viswanathan and the petitioner was born in that wedlock on 23.4.1990. Later on, Shri. T.Viswanathan abandoned the petitioner and her mother. It is stated in the writ petition that Viswanathan's whereabouts are not known. The petitioner has approached this Court for a direction to the respondents to sanction/authorise and release the family pension, DCRG and other pensionary benefits to her in the absence of the whereabouts of her father for more than ten years. A writ of certiorari quashing Ext.P8 order of the first respondent is also sought for, in as much as, the first respondent demanded the petitioner to produce death certificate in respect of her father.

2. When this matter came up for consideration on 13.12.2006, this Court, after hearing both sides, passed the following interim order:-

> "Third respondent is directed to make arrangements to conduct an enquiry to ascertain who are the surviving members of the family

> eligible to receive DCRG and family pension. The enquiry report in Annexure III form under Rule 118(3) of Part III K.S.R shall be prepared and produced before this Court on or before 30.1.2007. In conducting the enquiry the third respondent will be free to rely on Ext.P6 Certificate of the Tahsildar. In the meantime, the petitioner shall take steps to produce the certificate relating to the guardian from the competent authority."

3. Govt. Pleader has produced Annexure III form under Rule 118(3) of Part III K.S.R along with a memo. The petitioner has filed additional documents supported by an affidavit. The additional document produced includes Ext.P10 Certificate from the Tahsildar showing that the guardian of the petitioner is Shri.K.Gangadharan, resident of 24/206A "Regha Nivas' Kalpadam Parambu, Azhchavattom, Kozhikode.

4. In the light of the above documents, it is evident beyond doubt that, the petitioner is the only surviving legal heir of late Smt. K. Sulochana and she shall therefore be paid amounts due from the department towards the terminal benefits, family pension etc. on account of the death of Smt. K.Sulochana. In the light of the documents before this Court it is not necessary for the first respondent to insist that the certificates called for as per Ext.P8 should be produced before that respondent to consider the case of the petitioner and grant the reliefs due to him.

5. In the above circumstances, Ext.P8 order is set aside. Respondents 1, 3 and 4 are directed to sanction/authorise and release the family pension, DCRG and other terminal benefits due on account of the death of late Smt.K.Sulochana to her minor daughter Soumya, as early as possible, in any event, within two months from the date of receipt of a copy of the judgment. Writ petition is disposed of accordingly.

K.K.DENESAN
Judge

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